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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,770	09/30/2003	Barrett Morris Kreiner	BS030265 (03-BS022)	4441
7590 Scott P. Zimmerman P.O. Box 3822 Cary, NC 27519				
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EXAMINER				
WONG, ALLEN C				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/674,770	<b>Applicant(s)</b> KREINER ET AL.	
	<b>Examiner</b> Allen Wong	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claim 7 have been read and considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 5/3/07 have been fully read and considered but they are not persuasive.

Regarding lines 13-17 on page 6 of applicant's remarks about claims 1 and 12, applicant states that the examiner agreed that the claims, as originally presented, overcome the cited documents. The examiner respectfully disagrees. On April 10, 2007, 11am Eastern Standard Time, the interview took place where Attorney Zimmerman discussed the prior relative to the present invention in that Parnian's citation of the event log or element 132 of figure 3 is not the claimed "loop buffer" that stores video data of the event captured by the camera. It is true that the Parnian's element 132 of figure 3 is not the "loop buffer", however, as stated in the interview on April 10th, the examiner did specifically pointed out that the Parnian's element 65 of figure 2 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a, and also pointed to column 12, lines 26-34. Clearly, Parnian's element 65 is a "loop buffer also storing video data of the event captured by the camera". Parnian meets the broad limitations of claim 1. The use of a video memory is not a patentable feature since it is well known in the art to use memory for storing the obtained video image data into some type of video image storage unit(s) so that important image data is not lost and kept in record for review and replay.

Regarding line 24 on page 7 to line 2 on page 8 of applicant's remarks, applicant contends that "set of rules" limitation is not disclosed since the "loop buffer" is not disclosed in Parnian. The examiner respectfully disagrees. The aforementioned "loop buffer" is disclosed for reasons as explained above and in the rejection below. As for the "set of rules", Parnian discloses element 20 of figure 2 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means, like mass storage devices 51 and 52, and removable flash memory 53. Also, in the applicant's specification, paragraph [0025] discloses that the video data can be determined as to when the transfer takes place into other storage means or external devices like memory cards, flash memory or optical storage devices. Thus, it is clear that the applicant's description about the "set of rules" is very similar to Parnian's specification. Thus, Parnian discloses the "set of rules".

Regarding lines 13-18 on page 8 of applicant's remarks, applicant states that Parnian does not disclose claims 11 and 20. The examiner respectfully disagrees. Because of the reasons as stated above and in the rejection below for the "loop buffer", claims 11 and 20 are disclosed for similar reasons.

Independent claims 1 and 12 are rejected for reasons as stated above and in the rejection below. Dependent claims 2-6, 8, 9, 11, 13-18 and 20 are rejected for at least similar reasons as stated for claims 1 and 12.

Regarding page 9 of applicant's remarks, applicant argues that claims 10 and 19 are not disclosed or suggested in the combination of Parnian and Shamosh. The

examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Shamosh, as a whole, for providing an accurate, cost-effective, efficient, robust way of recording audio/visual data in surveillance applications, as disclosed in Shamosh's column 1, lines 49-55.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Parnian does not specifically disclose interfacing with a vehicle controller to transfer video data of the event. However, Shamosh teaches modem 30 of figure 1 is

within the vehicular security system of figure 3 that is utilized to establish interfacing for transferring video data of event captured by video/audio recording unit 24. Thus, Shamosh teaches interfacing with a vehicle controller to transfer video data of the event. Because the "loop buffer" and the "set of rules" limitation is disclosed as stated in the above and in the rejection below, it would have been obvious to apply the combination of Parnian and Shamosh for providing an accurate, cost-effective, efficient, robust way of recording audio/visual data in surveillance applications, as disclosed in Shamosh's column 1, lines 49-55.

In conclusion, the rejection of claims 1-20 is maintained.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-6, 8, 9, 11-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Parnian (6,538,623).

Regarding claims 1 and 12, Parnian discloses a method and a video recorder, comprising:

a processor communicating with memory, the memory for storing video data of an event captured by a camera, the video data comprising a series of picture frames (col.9, ln.7-19, note in fig.2 the use of a CPU for processing data and communicating with memory stored in element 22, 51 and 52, and video data is captured by video camera 35a);

a loop buffer also storing video data of the event captured by the camera (fig.2, element 65 and col.12, ln.26-34; Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a); and

a set of rules stored in the memory, the set of rules determining when to transfer the contents of the loop buffer into the memory (fig.2, element 20 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means like mass storage devices 51 and 52, and removable flash memory 53);

wherein the video recorder utilizes the loop buffer to provide video data preceding the event (fig.2-3, note scene log 120, event log 132, photo log 126, etc. contain time-date stamps to check for preceding events as seen in fig.4a-4g for scanning through past cases, crime scenes, crime locations, evidence, photos, etc. to provide video data preceding the event, the data from element 65 is obtained, considered, utilized to provide data of the video image data of the preceding event as stored in the loop buffer).

Regarding claims 2, 3, 13 and 14, Parnian discloses wherein the memory comprises a mass-storage device, the mass storage device storing the video data of the event (fig.2, element 51 and 52).

Regarding claims 4, 5 and 15, Parnian discloses wherein the memory comprises a memory card (fig.2, element 53).

Regarding claims 6 and 16, Parnian discloses further comprising an interface to a communications network (fig.2, element 90).

Regarding claims 8, 11, 17 and 20, Parnian discloses further comprising a switch to transfer the contents of the loop buffer into the memory (fig.2, element 65 and col.12, ln.26-34; Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a; fig.2, element 20 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means like mass storage devices 51 and 52, and removable flash memory 53, and that wherein user input can be used from keyboard 60 and mouse 32b to transfer contents of the loop buffer into the memory).

Regarding claims 9 and 18, Parnian discloses wherein the loop buffer also stores audio data of the event captured by a microphone (fig.3, element 103).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the



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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parnian (6,538,623) in view of Shamosh (5,144,661).

Regarding claims 7, Parnian discloses wherein the set of rules that causes a transfer of the contents of the loop buffer into the memory devices memory (fig.2, element 20 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means like mass storage devices 51 and 52, and removable flash memory 53).

Parnian discloses that vehicular data can be obtained (fig.5b discloses that "automobile/traffic" data can be obtained). Parnian does not specifically disclose the "vehicular data" causing transfer of the contents of the loop buffer into the memory devices memory. However, Shamosh teaches the vehicular data causes the transfer of the contents of the loop buffer into the memory devices memory (note fig.1, modem 30 within the vehicular security system of fig.3 is utilized to establish interfacing the transfer of video image data of event captured by video/audio recording unit 24). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Shamosh, as a whole, for providing an accurate, cost-effective, efficient, robust way of recording audio/visual data in surveillance applications (Shamosh col.1, ln.49-55).

Regarding claims 10 and 19, Parnian discloses the video image data is directly transferred to the loop buffer (fig.2, element 65 and col.12, ln.26-34; Parnian discloses

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element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a). Parnian does not specifically disclose interfacing with a vehicle controller to transfer video data of the event. However, Shamosh teaches interfacing with a vehicle controller to transfer video data of the event (note fig.1, modem 30 within the vehicular security system of fig.3 is utilized to establish interfacing for transferring video data of event captured by video/audio recording unit 24). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Shamosh, as a whole, for providing an accurate, cost-effective, efficient, robust way of recording audio/visual data in surveillance applications (Shamosh col.1, ln.49-55).

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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6. Claims 1-20 are provisionally rejected on the ground of nonstatutory double patenting over claims 1, 11 and 18 of copending Application No. 10/674,995. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claim 1 of Application No. 10/674,995 discloses "storing in memory...a series of frames...", and claim 1 of the present invention discloses "memory for storing video data... series of picture frames". Similarly, Claim 1 of Application No. 10/674,995 and claim 1 of the present invention discloses "loop buffer". Also, claim 1 of Application No. 10/674,995 discloses "transferring the contents of the loop buffer to the memory...", and claim 1 of the present invention discloses "transfer contents of the loop buffer into the memory". Although the claims are not exact as application No. 10/674,995 discloses audio and video, it would have been obvious to modify the application No. 10/674,995 to exclude audio and only process the video for obtaining the present invention.

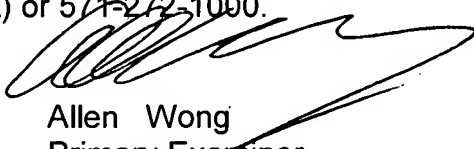
Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen Wong whose telephone number is (571) 272-7341. The examiner can normally be reached on Mondays to Thursdays from 8am-6pm Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Allen Wong  
Primary Examiner  
Art Unit 2621

AW  
7/18/07